CLERK'S COPY.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1932

No. 356

INDIAN TERRITORY ILLUMINATING OIL COMPANY, PETITIONER,

vs.

BOARD OF EQUALIZATION OF TULSA COUNTY, OKLAHOMA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OKLAHOMA

PETITION FOR CERTIORARI FILED SEPTEMBER 8, 1932

CERTIORARI GRANTED DECEMBER 12, 1932

(37,053)

(37,053)

SUPREME COURT OF THE UNITED STATES

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[fols. a & 1] Citation, in usual form, showing service on W. L. Coffey and Hugh Webster, filed August 24, 1932, omitted in printing.

[fol. 2] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

No. 21295

INDIAN TERRITORY ILLUMINATING OIL COMPANY, a Corporation, Appellant (and Defendant in Error Below),

vs.

BOARD OF EQUALIZATION OF TULSA COUNTY, OKLAHOMA, Appellee (and Plaintiff in Error Below)

PETITION FOR APPEAL FROM THE SUPREME COURT OF THE STATE OF OKLAHOMA TO THE SUPREME COURT OF THE UNITED STATES—Filed Aug. 12, 1932

Comes now the Indian Territory Illuminating Oil Company, a corporation, defendant in error in the Supreme Court of the State of Oklahoma in the above entitled cause, which cause bears the number 21,295 in the said Supreme Court of the State of Oklahoma, and respectfully shows by this petition and the assignment of errors filed herewith that in the records, proceedings, decision and judgment of the Supreme Court of the State of Oklahoma, the same being the highest court of the State of Oklahoma in which a decision could be had in the suit, and the decision and judgment therein being final, manifest error has occurred greatly to the damage of this petitioner, whereby petitioner feels aggrieved.

That, as appears in the records and proceedings in this cause, the petitioner herein is preparing and filing with the County Assessor of Tulsa County, State of Oklahoma, its assessment list or schedule of property located in Tulsa [fol. 3] County, State of Oklahoma, did claim as property exempt from taxation by any ad valorem taxing agency within the State of Oklahoma, 51,630 barrels of crude oil,

which claim was by the said County Assessor overruled and denied. Whereupon the petitioner, as provided by the laws of the State of Oklahoma, appeared before the Board of Equalization of Tulsa County, Oklahoma, plaintiff in error in the Supreme Court of the State of Oklahoma in this cause, hereinafter referred to as plaintiff in error, and after a hearing the said plaintiff in error denied the claim of the petitioner and directed the County Assessor of Tulsa County, State of Oklahoma, to add the said 51,630 barrels of crude oil to the assessment roll of Tulsa County, State of Oklahoma, as assessable and taxable property of this petitioner for the year 1929. Thereafter the petitioner, in accordance with the laws of the State of Oklahoma, duly appealed to the District Court of Tulsa County, State of Oklahoma wherein a judgment was rendered in favor of this petitioner and wherein it was held that the said 51,630 barrels of crude oil was exempt from ad valorem taxation for the year 1929 and wherein the taxing officials of Tulsa County, State of Oklahoma, were ordered to strike and cancel said property from the tax rolls of said Tulsa County, Oklahoma. From such judgment the plaintiff in error, as further provided by the laws of the State of Oklahoma appealed to the Supreme Court of the State of Oklahoma. By the final decision of the said Supreme Court of the State of Oklahoma, it was held that the said District Court of Tulsa County, State of Oklahoma, erred in holding the said oil exempt from ad valorem taxation and the said judgment of the said district court was reversed, and the cause remanded with direction to the District Court to render judgment accordingly.

The final decision of the Supreme Court of the State of Oklahoma was made, rendered, and entered on the 17th day of May, 1932. Thereafter and on the 28th day of May, 1932, the petitioner filed a petition for rehearing, which petition for rehearing was denied by the said Supreme Court of the State of Oklahoma by an order made and entered on the 7th day of June, 1932.

[fol. 4] As also appears from the records and proceedings in this cause, the claim and contention that the said crude oil was exempt from and not subject to ad valorem taxation for the year 1929 by the State of Oklahoma or any political subdivision thereof, which claim and contention was made and urged throughout the entire proceedings above de-

scribed, was based upon the following facts: The said crude oil was produced by the petitioner under and pursuant to the terms of a mining lease held by the petitioner on lands located in Seminole County, State of Oklahoma, and owned by Seminole allottees, members of the Seminole tribe of Indians, as their individual allotments and restrictions against alienation of the said land imposed by Acts of Congress had not been removed. The said lease so held by the petitioner was executed by the said allottees on their said allotments and was approved by the Secretary of the Interior pursuant to the authority of an Act of Congress approved May 27, 1908 (35 Stat. at L. 312). The said oil so produced by the petitioner had not been disposed of by the petitioner from the time of production thereof until and throughout the entire tax period in question but was owned and held in storage in its original state throughout and during the entire tax period in question by the petitioner as lessee under said lease.

As further appears from the records and proceedings in this cause there was drawn in question the validity of certain statutes of the State of Oklahoma and authority exercised thereunder on the ground of their being repugnant to the Constitution, treaties, and laws of the United States and the final decision in this cause by the Supreme Court of the State of Oklahoma was in favor of their validity, the said statutes of the State of Oklahoma being Sections 9574 and succeeding sections of Chapter 84 Compiled Oklahoma Statutes 1921, particularly sections 9814, 9627 and 9614 which provide for the assessment, levy and collection by the State of Oklahoma and the political subdivisions thereof of an ad valorem tax on all property situated in the State of Oklahoma during any given tax year including crude petroleum produced from the allotment of a restricted Seminole Indian in Seminole County, Oklahoma, by a lessee under a lease executed by such restricted allottee and duly approved by the Secretary of the Interior, and while the oil [fol. 5] so produced by said lessee under said lease is still owned and held in storage in its original state and not disposed of by said lessee.

And as further appears in the records and proceedings in this cause there was drawn in question the validity of certain statutes of an authority exercised under the United

States and the final decision of the Supreme Court of the State of Oklahoma in this cause was against their validity; and likewise in said cause as appears from the records and proceedings therein rights, privileges and immunities were specially set up and claimed by this petitioner under the Constitution of the United States, a Treaty of the United States with the Seminole Nation of Indians, and certain Statutes of the United States and the final decision of the Supreme Court of the State of Oklahoma in this cause is against and denies such rights, privileges and immunities. The said Statutes of the United States above referred to are as follows: 30 Stat. at L. 567 (the Act ratifying the agreement between the Dawes Commission and the Seminole Nation of Indians which, among other things, provided for the allotments to members of the Seminole Nation of Indians); 34 Stat. at L. 137, 144, 35 Stat. at L. 312, 45 Stat. at L. 495 (imposing restrictions upon the alienation of lands allotted to the Seminole allottees and providing for the leasing thereof with the approval of the Secretary of the Interior); and 34 Stat. at L. 367 (the Enabling Act which provides that nothing in the Constitution of the State of Oklahoma shall be construed to limit or impair the rights of persons or property pertaining to the Indians of the Territory of Oklahoma and of the Indian Territory or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property or other rights by treaties, agreement, law or otherwise, which it would have been competent to make if the said Act had not been passed.)

[fol. 6] Petitioner further represents that the said decision and judgment of the Supreme Court of the State of Oklahoma was erroneous in holding and deciding that the crude oil above described was subject to ad valorem taxation for the year 1929 by the State of Oklahoma and its political subdivisions, and in reversing the judgment of the said District Court of Tulsa County, Oklahoma, and that the said decision and judgment of the Supreme Court of the State of Oklahoma is contrary to and in violation of the Treaty and Statutes of the United States hereinbefore referred to and the Constitution of the United States.

Petitioner, by reason of the errors above indicated and more fully set out in the assignment of errors filed herewith

desires to avail itself of the law and practice in such cases made and provided by appeal to the Supreme Court of the United States.

Wherefore petitioner prays for the allowance of an appeal from the Supreme Court of the State of Oklahoma to the Supreme Court of the United States and for such other and further process and proceedings as will enable this petitioner to obtain a review of the case and a correction of said errors by the Supreme Court of the United States, and also prays that an order be made fixing the amount of the security which petitioner as appellant shall give and furnish upon appeal and that upon the giving of said security all further proceedings in the Supreme Court of the State of Oklahoma be suspended and stayed until the determination of said appeal by the Supreme Court of the United States; and that a transcript of the record, proceedings and papers in this case, duly authenticated by the Clerk of the Supreme Court of the State of Oklahoma, may be sent to the Supreme Court of the United States.

John H. Miley, Wm. P. McGinnis, Counsel for Petitioner, Indian Territory Illuminating Oil Company.

[fol. 7] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

ASSIGNMENT OF ERRORS AND PRAYER FOR REVERSAL—Filed Aug. 12, 1932

Assignment of Errors

Comes now the Indian Territory Illuminating Oil Company, a corporation, the defendant in error in the Supreme Court of the State of Oklahoma in the above cause and the petitioner for an appeal herein, and respectfully shows that in the opinion and judgment of the Supreme Court of the State of Oklahoma in said cause, manifest errors were committed to its prejudice, which are apparent in the record and proceedings therein; that the errors committed by the Supreme Court of the State of Oklahoma in its opinion

and judgment in said cause are more fully and particularly set forth as follows:

1. The Supreme Court of the State of Oklahoma erred in reversing the judgment of the District Court of Tulsa County, Oklahoma, and in holding and deciding that the said District Court of Tulsa County, Oklahoma, erred in holding that the property sought to be taxed in this cause was not subject to ad valorem taxation for the year 1929 by the State of Oklahoma or any political subdivision [fol. 8] thereof.

2. The Supreme Court of the State of Oklahoma erred in refusing to affirm the judgment of the District Court of Tulsa County, Oklahoma.

3. The Supreme Court of the State of Oklahoma erred in holding, deciding and determining that Section 9574 and succeeding sections of Chapter 84 Compiled Oklahoma Statutes 1921, particularly Sections 9814, 9627 and 9614, which provide for the assessment, levy and collection by the State of Oklahoma and political subdivisions thereof of an ad valorem tax on all property situated in the State of Oklahoma during any given tax year are valid when applied to crude petroleum produced from the allotment of a restricted Seminole Indian in Seminole County, Oklahoma, by a lessee under a lease executed by such restricted allottee and duly approved by the Secretary of the Interior, and while the oil so produced is still owned and held in storage in its original state and not disposed of by said lessee and in rendering a decision in favor of the validity of said Statutes when applied to and construed to cover the property sought to be taxed in this cause, and in not holding under the facts in this cause that said Statutes as so applied are repugnant to the Constitution, Treaties and Laws of the United States.

4. The Supreme Court of the State of Oklahoma erred in holding, deciding, and determining that the acts of the County Assessor, the County Treasurer and the Board of Equalization of Tulsa County, Oklahoma, and the authority exercised by them and each of them under and — the authority conferred and vested in them by the said Statutes of the State of Oklahoma mentioned specifically in

assignment number 3 herein and above set forth, and other [fol. 9] statutes of the State of Oklahoma authorizing the assessment of an ad valorem tax on the property involved in this cause for the period in question are valid, and in rendering a decision in favor of their validity and in not holding said Statutes and the authority so exercised by the officials aforesaid under said Statutes repugnant to the Constitution, Treaties and Laws of the United States.

5. The Supreme Court of the State of Oklahoma erred in sustaining the above mentioned Statutes of the State of Oklahoma, authorizing the assessment, levy and collection of ad valorem tax on the crude oil involved in this case, said crude oil being held in storage, unsold and in its original state throughout and during the entire tax period in question by the petitioner herein, and said crude oil having been by the petitioner produced solely under an oil and gas lease upon restricted Seminole lands under the control of Congress and the Secretary of the Interior.

6. The Supreme Court of the State of Oklahoma erred in its decision denying that the said crude oil produced by the petitioner is and was exempt from ad valorem taxation as claimed by it under the Constitution, Treaties and Laws of the United States.

Prayer for Reversal

For which errors the Indian Territory Illuminating Oil Company, defendant in error in the Supreme Court of the State of Oklahoma in this cause and petitioner for an ap- [fol. 10] peal herein, prays that the judgment and decision of the Supreme Court of the State of Oklahoma in this cause be reversed and that the said Supreme Court of the State of Oklahoma be directed to affirm the judgment of the District Court of Tulsa County, Oklahoma as rendered in said cause and for such other and further relief as to the Court may seem just and proper and for its costs.

John H. Miley, Wm. P. McGinnis, Counsel for Petitioner, Indian Territory Illuminating Oil Company.

[fol. 11] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

ORDER ALLOWING APPEAL—Filed Aug. 12, 1932

The Indian Territory Illuminating Oil Company, a corporation, defendant in error in the Supreme Court of the State of Oklahoma in the above entitled cause, which cause bears the number 21,295 in the said Supreme Court of the State of Oklahoma, having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the opinion and judgment made and entered in the said cause by the Supreme Court of the State of Oklahoma on the 17th day of May, 1932, and having presented and filed their petition for appeal, assignment of errors, and prayer for reversal, pursuant to the statutes and rules of the Supreme Court of the United States in such case made and provided;

It is now here ordered that an appeal be, and the same is hereby, allowed to the Supreme Court of the United States from the Supreme Court of the State of Oklahoma, as prayed in said petition and as provided by law, and it is further ordered that the Clerk of the Supreme Court of the State of Oklahoma shall prepare and certify a transcript of the record, proceedings, opinion and judgment in said cause and transmit the same to the Supreme Court of [fol. 12] the United States, so that he shall have the same in the said Supreme Court of the United States within thirty days from the date hereof.

And it is further ordered that the bond on appeal be fixed in the sum of Five Hundred and no/100 ($500.00) dollars and that upon the said Indian Territory Illuminating Oil Company, a corporation, filing a bond in the said sum, with sufficient surety, and conditioned as required by law, the same shall operate as a supersedeas of the opinion and judgment made and entered in the said cause, and shall suspend and stay all further proceedings in the Supreme Court of the State of Oklahoma until the final determina-

tion of said appeal by the Supreme Court of the United States.

Dated August 12th, 1932.

E. F. Lester, Chief Justice of the Supreme Court of the State of Oklahoma.

Attest:

Gus Pool, Clerk Supreme Court of Oklahoma, by Reuel Haskell, Jr., Deputy. (Seal Supreme Court of the State of Oklahoma.)

[fols. 13 & 14] Bond on appeal for $500.00, approved and filed August 12, 1932, omitted in printing.

[fol. 15] [File endorsement omitted]

[Title omitted]

STIPULATION AS TO CONTENTS OF TRANSCRIPT OF RECORD—Filed Aug. 24, 1932

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto that the transcript of record to be filed in the Supreme Court of the United States, pursuant to the appeal heretofore allowed herein, shall include the following:

1. Petition in Error, together with Case-Made attached thereto.
2. Opinion of the Supreme Court of the State of Oklahoma herein, together with a showing of the filing and entry thereof.
3. Petition for Rehearing.
4. Order of the Supreme Court of the State of Oklahoma overruling and denying Petition for Rehearing, together with a showing of the filing and entry thereof.
5. Petition for Appeal from the Supreme Court of the State of Oklahoma to the Supreme Court of the United States.
6. Assignment of Errors.

7. Order Allowing Appeal to the Supreme Court of the United States, and Fixing Amount of Bond.
8. Copy of Citation and Acknowledgment of Service Thereof.
9. Bond, together with Approval Thereof.
10. This Stipulation.

Dated August —, 1932.

W. L. Coffey, County Attorney; Hugh Webster, Asst. County Atty., Attorney- for Plaintiff in Error and Appellee. John H. Miley, Wm. P. McGinnis, Attorneys for Defendant in Error and Appellant.

[fol. 15½] [File endorsement omitted.]

[fol. 16] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

PETITION IN ERROR—Filed May 2, 1930

The said Board of Equalization of Tulsa County, Oklahoma, plaintiff in error, complains of said defendant in error, for that the said Indian Territory Illuminating Oil Company, a corporation, at the November, 1929, term of the District Court of Tulsa County, State of Oklahoma, recovered a judgment by the consideration of said Court against the said Board of Equalization of Tulsa County, Oklahoma, in a certain action then pending in the said Court, wherein the said Indian Territory Illuminating Oil Company, a corporation, was appellant and the Board of Equalization of Tulsa County, Oklahoma, was appellee, said cause being an appeal from the said Board of Equalization of Tulsa County, Oklahoma, in a matter pertaining to the assessment of the personal property of said Indian Territory Il-
[fols. 17-19] luminating Oil Company, as found and fixed by the said Board of Equalization for the year 1929. The original case made duly signed, attested and filed, and a certified transcript of the record of said Court is hereunto

attached, marked Exhibit "A", and made a part of this petition in error; and the said Board of Equalization of Tulsa County, Oklahoma, avers that there is error in the said record and proceedings in this, to-wit:

1. Said Court erred in overruling the motion of Plaintiff in Error for a new trial.

2. Said Court erred in rendering judgment for the defendant in error and against the plaintiff in error.

3. Said Court erred in holding and deciding that defendant in error's property is exempt from taxation.

4. Said Court erred in ordering and directing the taxing officials of Tulsa County, Oklahoma, to strike and cancel defendant in error's property from the tax rolls for the year 1929.

5. Said Court erred in overruling the motion of plaintiff in error to dismiss defendant in error's appeal.

6. Said Court erred in overruling plaintiff in error's demurrer to defendant in error's appeal.

Wherefore plaintiff in error prays that said judgment so rendered may be reversed, set aside and held for naught, and that a judgment may be rendered in favor of the plaintiff in error and against the defendant in error, upon the evidence, and that the plaintiff in error be restored to all rights that he has lost by the rendition of such judgment, and for such other and further relief as to the Court may seem just.

Byron Kirkpatrick, County Attorney; Hugh Webster, Assistant County Attorney, Attorneys for Plaintiff in Error.

[fol. 20] IN DISTRICT COURT OF TULSA COUNTY

In re Protest of the INDIAN TERRITORY ILLUMINATING OIL COMPANY on Assessment of Personal Property in Tulsa County, Oklahoma, for the Year 1929

No. 45612

INDIAN TERRITORY ILLUMINATING OIL COMPANY, a Corporation, Appellant,

vs.

THE BOARD OF EQUALIZATION OF TULSA COUNTY, OKLAHOMA, Appellee

Case-made

Be it remembered that heretofore, and on the 2nd day of July, A. D., 1929, the Indian Territory Illuminating Oil Company, a corporation, named as Appellant above, filed in the office of the Court Clerk within and for Tulsa County, Oklahoma, in District Court, a certified copy of Journal Entry of the action of the Board of Equalization in and for Tulsa County, Oklahoma, on a certain proceedings had before said Board, together with a certified copy of Notice of Appeal showing service upon D. A. Rowe, County Assessor, and O. G. Weaver, County Clerk, of Tulsa, Tulsa County, Oklahoma, which instruments, together with, and attached to the "Certification" referring thereto, are in the words and figures following, to wit:

[fol. 21] Certification

45612

STATE OF OKLAHOMA,
County of Tulsa, ss:

I, D. A. Rowe, do hereby certify:

That I am the duly elected, qualified and acting County Assessor of and for Tulsa County, State of Oklahoma, and by virtue of my election as such officer I am ex officio Secretary of the County Equalization Board of Tulsa County, State of Oklahoma.

As such Secretary I state that on the 5th day of June, 1929, at a regularly called and published meeting of the Board of Equalization in and for said County, the Indian Territory Illuminating Oil Company appeared by its Agent and Attorney, W. M. Plake, to protest the valuation placed on personal property owned by said company in said Tulsa County, upon his notice heretofore given to said Board.

That upon consideration of the arguments of said W. M. Plake, the said Board of Equalization overruled the protest and objections of said Indian Territory Illuminating Oil Company; denied the prayer for relief requested by objector and instructed the County Assessor of Tulsa County to add the property in dispute to the Assessment Roll of Tulsa County as being taxable property of the said Indian Territory Illuminating Oil Company in said County for the year 1929.

That the attached Journal Entry, Notice of Appeal and Notice of Protest are all the pleadings filed before said Board of Equalization and contain a statement and resume of all proceedings had and done before said Board on said date.

[fol. 22] Witness my hand this 2 day of July, 1929.

D. A. Rowe.

BEFORE BOARD OF EQUALIZATION OF TULSA COUNTY

45612

In the Matter of the Protest of INDIAN TERRITORY ILLUMINATING OIL COMPANY on Assessment of Personal Property for ad Valorem Taxation for the Year 1929

JOURNAL ENTRY OF DECISION

Now on this 5th day of June, 1929, the above-entitled matter came regularly on for hearing, said Board of Equalization in and for Tulsa County, Oklahoma, being in regular session, and said Indian Territory Illuminating Oil Company having been cited to appear before said Board on said date: Present, all members of the Board of Equalization, the County Assessor as ex-officio, Secretary of said Board, and Indian Territory Illuminating Oil Company, by W. M. Plake, its agent and attorney.

Whereupon said Board directs said Indian Territory Illuminating Oil Company to show cause why its personal property located in said Tulsa County, Oklahoma, should not be raised from $116,886.87 to $187,717.97 by the incorporation in said Assessment Roll for the year 1929, items as follows, to wit:

[fol. 23] 4 55,000 bbl. steel storage tanks, value $22,000.00.

51,630 bbls. crude oil, gravity 38.2, value $50,081.10.

Located in Red Fork Township, School District 22, Tulsa County, Oklahoma, which said Company shows on its return and claims exempt from taxation. And thereupon, attorney for said Company presents his arguments and authorities, and the said Board, being advised in the premises, finds:

That the items of (4) four 55,000-bbl. steel storage tanks, of the assessed valuation of $22,000.00, and the 51,630 bbls. crude oil, of the assessed valuation of $50,081.10, claimed exempt from taxation by said Indian Territory Illuminating Oil Company should be added to the assessment roll of said Tulsa County, as assessable property of said Company, and that the County Assessor of said Tulsa County should be ordered and directed to add said property, so claimed exempt, to said assessment roll.

It is therefore by said Board of Equalization ordered that the protest and objection of said Indian Territory Illuminating Oil Company to the addition of said above-described property to said assessment roll of Tulsa County, Oklahoma, be overruled; that the claim by said Company of exemption from taxation of said property be denied; that the County Assessor of Tulsa County, Oklahoma, shall add said property above described to the assessment roll of Tulsa County, Oklahoma, as assessable and taxable property of said Indian Territory Illuminating Oil Company for the year 1929; whereupon in compliance with such order, the County Assessor did then and there add [fol. 24] such property to said assessment roll as taxable property of said Indian Territory Illuminating Oil Company, for the year 1929.

To all of which rulings, orders and decision of said Board, the said Indian Territory Illuminating Oil Company then

and there excepts and objects, and gives notice of appeal to the District Court of Tulsa County, Oklahoma.

Dated the day and year first above written.

W. W. Stuckey, Chairman Board of Equalization in and for Tulsa County, Oklahoma.

Attest:

D. A. Rowe, County Assessor, Tulsa County, Oklahoma, ex-officio Secretary Equalization Board.

BEFORE BOARD OF EQUALIZATION OF TULSA COUNTY

NOTICE OF APPEAL

To the Honorable County Assessor and County Clerk of Tulsa County, Oklahoma:

You are hereby notified that the Indian Territory Illuminating Oil Company, of Bartlesville, Oklahoma, intends to, and does hereby, appeal to the District Court of Tulsa County, Oklahoma, from the orders, rulings and decision of the Honorable Board of Equalization of Tulsa County, Oklahoma, overruling the protest and objection of the Indian Territory Illuminating Oil Company in the matter of [fol. 25] the assessment for ad valorem taxes for the year 1929, on the personal property of said Indian Territory Illuminating Oil Company, located in Red Fork Township, School District 22, Tulsa County, Oklahoma, for and on account of the following reasons, to wit:

That the item of four (4) 55,000 barrel steel storage tanks, of the assessed value of $22,000.00, are claimed to be exempt from taxation on ad valorem basis, for the reason that the said tanks are items of property indispensably used in the production and marketing of crude oil produced by said Indian Territory Illuminating Oil Company, and as such indispensable and necessary items of equipment, are exempt from ad valorem taxation under Paragraph 5, Section 9814, C. O. S. 1921.

That the item of 51,630 barrels of crude oil in storage, of 38.2 gravity, produced from lands owned by restricted Indians, of the assessed value of $50,081.10, is not subject to ad valorem taxation in said County, for the reasons:

(a) That Indian Territory Illuminating Oil Company, in the producing of said oil, was operating as a governmental instrumentality, and under the Acts of Congress and the decisions of the United States Supreme Court, said product so produced, is not taxable by the State of [fol. 26] Oklahoma, or any of its political or municipal subdivisions.

(b) That said oil constitutes, as to Indian Territory Illuminating Oil Company, income derived from a restricted source, and as such income, under the Acts of Congress and the decisions of the United States Supreme Court, such property is not taxable by the State of Oklahoma, or any of its political or municipal subdivisions.

That Indian Territory Illuminating Oil Company, by and through its agent and attorney, appeared before the Honorable Board of Equalization of Tulsa County, Oklahoma, on the 5th day of June, 1929, and urged upon said Board the exemptions claimed as above set forth, for the reasons hereinabove set forth, and upon the presentation of arguments and authorities by said Indian Territory Illuminating Oil Company and by representatives of said Tulsa County, said Board did, on said 5th day of June, 1929, overrule the contention, protest and objection of said Indian Territory Illuminating Oil Company, and ordered and directed the County Assessor of Tulsa County, Oklahoma, to add the above-described property to the Assessment Roll for said County for the year 1929 as assessable property of said Indian Territory Illuminating Oil Company, which was accordingly done by said County Assessor, to which order, ruling and decision of said Board, the Indian Territory [fol. 27] Illuminating Oil Company then and there excepted, and gave notice of appeal to the District Court of Tulsa County, Oklahoma.

Wherefore take notice that said Indian Territory Illuminating Oil Company prosecutes its appeal to said District Court of Tulsa County, Oklahoma.

Dated this 2 day of July, 1929.

Indian Territory Illuminating Oil Company, by Fred M. Carter, C. E. Wilhite, W. M. Plake, Its Attorneys.

Service of the above and foregoing notice of appeal and receipt of a copy thereof is hereby acknowledged on this 2 day of July, 1929.

D. A. Rowe, County Assessor, Tulsa County, Oklahoma. O. G. Weaver, County Clerk, Tulsa County, Oklahoma.

[File endorsement omitted.]

[fol. 28] In District Court of Tulsa County

[Title omitted]

Motion to Dismiss Appeal—Filed Nov. 26, 1929

Comes now the appellee, Board of Equalization of Tulsa County, Oklahoma, and moves the dismissal of appellant's pretended appeal for the following reason:

That said pretended appeal was not taken, made and perfected in the manner and form provided by law.

Byron Kirkpatrick, County Attorney; Hugh Webster, Assistant County Attorney, Attorneys for Appellee.

[File endorsement omitted.]

[fol. 29] In District Court of Tulsa County

[Title omitted]

Demurrer—Filed Nov. 26, 1929

Comes now the appellee, Board of Equalization of Tulsa County, Oklahoma, and demurs to the appellant's complaint filed herein, for the reason that the said complaint does not state facts sufficient to constitute a cause of action in favor of said appellant, and against appellee under the laws of the State of Oklahoma, and does not entitled appellant to the relief asked for.

Byron Kirkpatrick, County Attorney; High Webster, Assistant County Attorney, Attorneys for Appellee.

[File endorsement omitted.]

[fol. 30] IN DISTRICT COURT OF TULSA COUNTY

[Title omitted]

STIPULATION AND AGREED STATEMENT OF FACTS—Filed Nov. 26, 1929

Comes now the Indian Territory Illuminating Oil Company as appellant, by its attorneys Fred M. Carter and C. E. Wilhite, and the Board of Equalization of Tulsa County, Oklahoma, as appellee, by the County Attorney of said County; and the said appellee reserving the right at the time of trial to move the dismissal of this appeal, and to demur to appellant's complaint, hereby stipulate and agree that if the Court overrules appellee's motion to dismiss and its demurrer to appellant's complaint, the following [fol. 31] statement contains and shall constitute the statement of facts in the above entitled matter, and that the Court may enter judgment accordingly the same as if such facts hereinafter recited had appeared from the evidence and testimony adduced in open court in due and regular manner upon the trial of said cause, the parties hereto reserving the right to except to the rulings, orders and judgment of the Court:

1. That the Indian Territory Illuminating Oil Company is a corporation organized under the laws of the State of Delaware, existing and doing business under the laws of the state of Oklahoma, and engaged in the production and marketing of crude oil, and that for the purposes of this hearing the said Indian Territory Illuminating Oil Company, a corporation, shall be designated as appellant, and the Board of Equalization of Tulsa County, Oklahoma, designated as appellee.

2. That appellant, on the 8th day of April, 1929, in due time, prepared and filed with the County Assessor of Tulsa County, Oklahoma, its assessment list or schedule, wherein was incorporated, among other items of property, the following, to wit: 4 55,000 bbl. steel storage tanks; 51,630 bbls. crude oil, located in School District No. 22, Red Fork Township, Tulsa County, Oklahoma, and notation made in and on said return and as a part thereof, that appellant deemed said property exempt from taxation, and claimed

exemption from taxation on said property in said county, by any ad valorem taxing agency within the State of Oklahoma.

3. That the claim of appellant relative to exemption from taxation of the storage tanks and crude oil above designated was by the County Assessor of Tulsa County, Oklahoma, denied and said Assessor did, on the 8th day of April, 1929, add said property to the assessment list of property belonging to this appellant, and assessed the value of said property in the following sums, to wit: 4 55,000 bbl. steel [fol. 32] storage tanks, $22,000.00; 51,630 bbls. crude oil, $51,081.10.

4. That on the 5th day of June, 1929, appellant appeared before the Board of Equalization of Tulsa County, Oklahoma, with the intent and for the purpose of having said property above described stricken from the assessment list of property belonging to appellant; that on said day, said Board heard and considered the evidence adduced by appellant and argument of counsel in support thereof, and did, upon consideration thereof, deny the claim of appellant, and sustained the action of the County Assessor of Tulsa County, Oklahoma, in placing said property on the Assessment List of said appellant.

5. That appellant gave notice of appeal from the action and decision of the Board of Equalization of Tulsa County, Oklahoma, and that the County Assessor of Tulsa County, Oklahoma, as Secretary of said Board, pursuant to said notice of appeal, has certified the proceedings had and done before said Board to this Court.

6. That the storage tanks mentioned above and complained of herein, and on account of which appearance was had before the Board of Equalization and appeal therefrom lodged in this Court, contained on January 1, 1929, approximately 172,747 bbls. of oil produced by appellant from producing leasehold estates located in Seminole County, Okahoma, which were (1) commercial leasehold estates, which is to say, fee simple, or those on which no restrictions of any nature have been, or are now imposed, or if imposed, have been removed by the proper authority, and (2) restricted leasehold estates, which is to say, leases or lands owned by restricted Indians on which lands such re-

strictions have been, and are now imposed by Acts of Congress. But that except as advised by appellant, the Assessor and the Board of Equalization of Tulsa County, Oklahoma, had no way of knowing from where or from what leases said oil was produced. That on the oil produced from the "commercial leasehold estates" a gross production tax has been paid by appellant, as provided by Sec. 9814, C. O. S. 1921; that on all oil produced from the "restricted leasehold estates" no gross production tax has been paid, this being the oil which appellant here seeks to be exempted from ad valorem tax in Tulsa County, Oklahoma; that the four storage tanks and the 51,630 bbls. of [fol. 33] crude oil above mentioned and involved herein were assessed for the year 1929 and subjected to a mill rate levy of 34.05 mills on the dollar valuation for State, County, School District and Township taxes, but that no ad valorem tax has been paid thereon.

7. That of the oil produced by appellant and stored in the tanks above described, 51,630 bbls. of said oil was produced by appellant from lands located in Seminole County, Oklahoma, owned by Indians whose restrictions against alienation have never been removed, copy of the lease under which appellant operated and produced the oil herein involved, and of which lease appellant was assignee, is hereto attached, marked "Exhibit A", hereby referred to and made a part hereof. But that except as advised by appellant, the Assessor and Board of Equalization of Tulsa County, Oklahoma, has no way of knowing what amount of said oil in storage, if any, was produced by appellant from restricted leasehold estates. That said oil was produced during the period from March 31, 1927, to June 16, 1927, and commingled and intermingled at the time and place of production with oil from the "Commercial leasehold estates" in Seminole County, Oklahoma, and immediately piped into storage tanks located in Tulsa County, Oklahoma, where it has remained in storage since 1927. That the oil from the restricted leasehold estate comprised approximately 30% of the entire amount of oil produced as determined by gauges at the wells.

8. That the steel storage tanks above mentioned are located in Tulsa County, Oklahoma, and became the property of appellant on the 14" day of March, 1927, and were

acquired for the purpose of storing oil produced by it, and such tanks are now, and were on January 1, 1929, owned by appellant. These tanks are not on any of the leaseholds from which any of the oil was produced, nor is it contended that they are on "restricted leasehold estates."

9. That pursuant to the terms of the Departmental Lease, copy of which is attached hereto as Exhibit "A", appellant as lessee paid or caused to be paid to the Superintendent of the Five Civilized Tribes, Muskogee, Oklahoma, for the said lessors, as royalty, the sum of 12½% of the gross proceeds of all crude oil extracted from said land, said [fol. 34] payment being made at the time of removal of the oil. That said Indians and lessors owned no part of the oil in storage on January 1, 1929, nor will they receive any part of the proceeds of same when sold or disposed of by appellant.

Indian Territory Illuminating Oil Company, Appellant, by C. E. Wilhite, Its Attorney. Board of Equalization of Tulsa County, Oklahoma, Appellee, by Byron Kirkpatrick, County Attorney; High Webster, Assistant County Attorney.

EXHIBIT "A" TO STIPULATION

Form A, Series 1908, Approved April 20, 1908. Amended February 6 and June 29, 1911. 27482.

Oil and Gas Mining Lease upon Land Selected for Allotment

Book 184, Page 62

Seminole Nation, Oklahoma

This Indenture of Lease, Made and entered into in quadruplicate on this 9th day of July, A. D., 1924, by and between J. L. Hull, Guardian of Willie Harjo, a minor, of Seminole, Okla., Leah Larney nee Harjo of Sasakwa, Okla., and Molly Anna Harjo, and enrolled fullblood Seminole Citizen, Roll No. 966 of Seminole, Okla., the said Willie

[fol. 35] Harjo and Leah Larney nee Harjo being the sole surviving issue born since March 4, 1906, and said Molly Anny Harjo being the surviving widow of Tolof Harjo, deceased, who was a full blood citizen of the Seminole Nation, Roll No. 935, party of the first part, hereinafter designated as lessor, and B. V. Pipkin, of Seminole, Oklahoma, party of the second part, hereinafter designated as lessee, under and in pursuance of the provisions of the Act of Congress approved May 27, 1908 (35 Stat. L. P. 312), witnesseth:

1. The lessor, for and in consideration of one dollar, the receipt whereof is acknowledged, and of the royalties, covenants, stipulations and conditions hereinafter contained and hereby agreed to be paid, observed and performed by the lessee, does hereby demise, grant, lease, and let unto the lessee, for the term of ten years from the date of the approval hereof by the Secretary of the Interior, and as much longer thereafter as oil or gas is found in paying quantities, all the oil deposits and natural gas in or under the following described tract of land lying within the county of Seminole and state of Oklahoma, to wit: The Southeast Quarter of the Southeast Quarter (S. E. ¼ of S. E. ¼) same being the homestead allotment of Tolof Harjo, deceased, Seminole Roll No. 935, of Section 23, Township 9 N. Range 6E, of the Indian Meridian, and containing forty (40) acres, more or less, with the exclusive right to prospect for, extract, pipe, store and remove oil and natural gas, and to occupy and use so much, only [fol. 36] of the surface of said land as may reasonably be necessary to carry on the work of prospecting for, extracting, piping, storing, and removing such oil and natural gas, also the right to obtain from wells, or other sources on said lands by means of pipe lines or otherwise, a sufficient supply of water to carry on said operations, and also the right to use free of cost, oil and natural gas as fuel so far as necessary to the development and operation of said property.

2. The lessee hereby agrees to pay or cause to be paid to the Superintendent of the Five Civilized Tribes, Muskogee, Oklahoma, for the lessor, as royalty, the sum of 12½ per cent. of the gross proceeds of all crude oil extracted

from said land, such payment to be made at the time of sale or removal of the oil. And the lessee shall pay as royalty on each gas producing well three hundred dollars per annum in advance, to be calculated from the date of commencement of ultilization; provided, however, in the case of gas wells of small volume, when the rock pressure is one hundred pounds or less, the parties hereto may, subject to the approval of the Secretary of the Interior, agree upon a royalty, which will become effective as a part of this lease; provided, further, That in case of gas wells of small volume, or where the wells produce both oil and gas or oil and gas and salt water to such extent that the gas is unfit for ordinary domestic purposes, or where the gas from any well is desired for temporary use in connection with drilling and pumping operations on adjacent or nearby tracts, the [fol. 37] lessee shall have the option of paying royalties upon such gas wells of the same percentage of the gross proceeds from the sale of gas from such wells as is paid under this lease for royalty on oil. The lessor shall have the free use of gas for domestic purposes in his residence on the leased premises, provided there shall be surplus gas produced on said premises over and above enough to fully operate the same. Failure on the part of the lessee to use a gas producing well, which cannot profitably be utilized at the rate herein prescribed, shall not work a forfeiture of this lease so far as the same relates to mining oil, but if the lessee desires to retain gas producing privileges, the lessee shall pay a rental of one hundred dollars per annum in advance, calculated from date of discovery of gas, on each gas producing well, gas from which is not marketed or not utilized otherwise than for operations under this

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lease. Payments of annual gas royalties shall be made within twenty-five days from the date such royalties become due, other royalty payments to be made monthly on or before the 25th day of the month succeeding that for which such payment is to be made, supported by sworn statements.

3. Until a producing well is completed on said premises the lessee shall pay, or cause to be paid, to said Superintendant for the Five Civilized Tribes, Muskogee, Okla-

homa, for lessor, as advance annual royalty, from the date of the approval of this lease, fifteen cents per acre per [fol. 38] annum, annually in advance for the first and second years; thirty cents per acre per annum, annually, in advance, for the third and fourth years; seventy-five cents per acre per annum, annually, in advance, for the fifty year; and one dollar per acre per annum, annually, in advance, for each succeeding year of the term of this lease; it being understood and agreed that such sums of money so paid shall be a credit on stipulated royalties, and the lessee hereby agrees that said advance royalty when paid shall not be refunded to the lessee because of any subsequent surrender or cancellation thereof; nor shall the lessee be relieved from its obligation to pay said advance royalty annually when it becomes due, by reason of any subsequent surrender or cancellation of this lease.

4. The lessee shall exercise diligence in sinking wells for oil and natural gas on land covered by this lease and shall drill at least one well thereon within one year from the date of approval of this lease by the Secretary of the Interior, or shall pay to said Superintendant for the Five Civilized —, Muskogee, Oklahoma, for the use and benefit of the lessor, for each whole year the completion of such well is delayed after the date of such approval by the Secretary of the Interior, for not to exceed ten years from the date of such approval, in addition to the other considerations named herein, a rental of one dollar per acre, payable annually; and if the lessee shall fail to drill at least one well within any such yearly period and shall fail to surrender [fol. 39] this lease by executing and recording a proper release thereof and otherwise complying with paragraph numbered 7 hereof on or before the end of any such year during which the completion of such well is delayed, such failure shall be taken and held as conclusively evidencing the election and covenant of the lessee to pay the rental of one dollar per acre for such year and thereupon the lessee shall be absolutely obligated to pay such rental. The failure of the lessee to pay such rental before the expiration of fifteen days after it becomes due at the end of any yearly period, during which a well has not been completed as provided herein, shall be a violation of one of the material and substantial terms and conditions of this lease,

and be cause for cancellation of such lease under paragraph numbered 9 hereof; but such cancellation shall not in any wise operate to release or relieve the lessee from the covenant and obligations to pay such rental, or any other accrued obligation. The lessee may be required by the Secretary of the Interior, or by such officer as may be designated by him for the purpose to drill and operate wells to offset wells on adjoining tracts and within three hundred feet of the dividing line, or in case of gas wells lessee may have the option, in lieu of drilling offset wells, of paying a sum equal to the royalties which would accrue on each well to be offset if said wells had been drilled and were being operated on the land described herein and in accordance with the terms hereof. It is understood and agreed by the parties hereto that offset wells shall be drilled or royalty paid in lieu of drilling, within ten days after the [fol. 40] lessee is notified to do so, and failure to comply with such requirements shall constitute a violation of one of the substantial terms of this lease.

5. The lessee shall carry on development and operations in a workmanlike manner, commit no waste on the said land and suffer none to be committed upon the portion in his occupancy or use, take good care of the same and promptly surrender and return the premises upon the termination of this lease to lessor or to whomsoever shall be lawfully entitled thereto, unavoidable casualties excepted; shall not remove therefrom any buildings or permanent improvements erected thereon during the said term by the said lessee, but said buildings and improvements shall remain a part of said land and become the property of the owner of the land as a part of the consideration for this lease, excepting tools, derricks, boiler houses, pipe lines, pumping and drilling outfits, tanks, engines and machinery, and the casing of all dry or exhausted wells which shall remain the property of the lessee, and may be removed at any time prior to sixty days after the termination of the lease by forfeiture or otherwise; and not permit any nuisance to be maintained on the premises under lessee's control nor allow any intoxicating liquors to be sold or given away for any purposes on such premises; shall not use such premises for any other purpose than those authorized in the lease; and before abandoning any well shall securely plug the same so as to

effectually shut off all water from the oil-bearing stratum, [fol. 41] or in the manner required by the laws of the state of Oklahoma.

6. The lessee shall keep an accurate account of all oil-mining operations, showing the sales, prices, dates, purchases, and the whole amount of oil mined or removed; and all sums due as royalty shall be a lien on all improvements, tools, movable machinery, and all other personal chattels used in operating said property and also upon all of the unsold oil obtained from the land herein leased, as security for payment of said royalty.

7. The lessee may at any time, by paying to the Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma, all amounts then due as provided herein and the further sum of one dollar, surrender and cancel this lease and be relieved from all further obligations or liability thereunder; provided, if this lease has been recorded lessee shall execute a release and record the same in the proper county recording office; provided, further, in event restrictions are removed from all leased premises, the lessee may surrender all the undeveloped portion thereof by paying the lessor all amounts then due and the further sum of one dollar, which surrender shall not affect the terms hereof as to each producing well and ten acres of said premises as nearly in square form as possible next contiguous to and surrounding each of said wells, and execute and record a cancellation of premises surrendered.

8. This lease shall be subject to the regulations of the [fol. 42] Secretary of the Interior, now or hereafter in force, relative to such leases, all of which regulations are made a part and condition of this lease; provided, however, that no regulations made after the approval of this lease, affecting either the length of term of oil and gas leases, the rates of royalty or payment thereunder, or the assignment of leases, shall operate to affect the terms and conditions of this lease.

9. Upon the violation of any of the substantial terms and conditions of this lease the Secretary of the Interior (or lessor, in event restrictions are removed as provided in paragraph 12 hereof) shall have the right at any time after

thirty days' notice to the lessee specifying the terms or conditions violated, to declare this lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

10. Before this lease shall be in force and effect the lessee shall furnish a bond with responsible surety to the satisfaction of the Secretary of the Interior, and such further bond or bonds as may be required by said Secretary, conditioned for the performance of this lease, which bond shall be deposited and remain on file in the Indian office.

11. Assignment of this lease or any interest therein may be made with the approval of the Secretary of the Interior, it being understood that to secure such approval the proposed assignee need only be qualified to hold such a lease under the rules and regulations, and furnish a bond with responsible surety to the satisfaction of the Secretary of the Interior, conditioned for the faithful performance of [fol. 43] the covenants and conditions of this lease.

12. In event restrictions on alienation shall be removed from all the leasehold premises described above, this lease shall be released from the supervision of the Secretary of the Interior, such release to take effect without further agreement, from the date such restrictions are removed, and thereupon the authority and power delegated to the Secretary of the Interior as herein provided shall cease, and all payments required to be made to said Superintendent for the Five Civilized Tribes, Muskogee, Oklahoma, shall thereafter be made to lessor or the then owner of said lands in person or be deposited to the credit of said lessor or his assigns at the First State Bank of Seminole, Okla., or such other place as the said lessor or his assigns may from time to time designate in writing, and changes in regulations thereafter made by the Secretary of the Interior applicable to oil and gas leases shall not apply to this lease.

13. Each and every clause and covenant in this indenture shall extend to the heirs, executors, administrators, successors, and lawful assigns of the parties hereto.

14. In Witness Whereof, the said parties have hereunto subscribed their names and affixed their seals on the day and year first above mentioned.

[fol. 44] J. L. Hull, Guardian Willie Harjo Minor. (Seal.) Mollie Anna Harjo. (Seal.) Leah Larney Nee Harjo. (Seal.) B. V. Pipkin.

Two witnesses to execution by lessor:

B. H. McKellop, P. O. Wewoka, Okla. M. W. Janes, P. O. Seminole, Oklahoma.

Two witnesses to execution by lessee:

Elizabeth Powell, P. O. Seminole, Oklahoma. M. W. Janes, P. O. Seminole, Oklahoma.

Approved in open Court this the 9th day of July, 1924.

Thos. O. Criswell. (Seal.)

Book 184, page 65:

STATE OF OKLAHOMA,
County of Seminole, ss:

Before me, a Notary Public in and for said County and State, on this 9th day of July, 1924, personally appeared J. L. Hull, Guardian of William Harjo, a Minor, Leah Larney nee Harjo, and B. V. Pipkin, to me known to be the identical persons who executed the within and foregoing lease by their respective signatures and also Molly Anna Harjo, to me known to be the identical person who executed the within and foregoing lease, by her mark, in my presence and in the presence of B. H. McKellop and M. W. Janes as witnesses, and acknowledged to me that they executed [fol. 45] the same as their free and voluntary act and deed for the uses and purposes therein set forth.

C. W. Johnston. My Commission expires 1-15-29. (Seal.)

Department of the Interior, Office of the Superintendent for the Five Civilized Tribes, Muskogee, Okla.

Nov. 12, 1924.

The within lease is forwarded to the Commissioner of Indian Affairs with recommendation that it be approved. See my report of even date.

C. J. Hunt, Acting Superintendent.

Department of the Interior, Office of Indian Affairs, Washington, D. C.

Nov. 19, 1924.

Respectfully submitted to the Secretary of the Interior, with recommendation that it be Approved.

E. B. Meritt, Assistant Commissioner.

Assigned 12-16-24 to I. T. I. O. by B. V. Pipkin.
Approved 1-24-25.

Department of the Interior, Washington, D. C.

Nov. 21, 1924.

Approved.

F. M. Goodwin, Assistant Secretary of the Interior.

[fol. 46] Filed in the office of the Superintendent for the Five Civilized Tribes this 28 day of July, 1924, at 8:30 o'clock A. M.

S. E. Wallen, Superintendent, by James L. Granger.

Advance Royalty Received, $6.00.

[File endorsement omitted.]

[fol. 47] In District Court of Tulsa County

No. 45612

I. T. I. O., Plaintiff,

vs.

Bd. of Equalization, Tulsa Co., Defendant

Order Overruling Motion to Dismiss and Demurrer—Nov. 26, 1929

Motion to dismiss and demurrer overruled. Appellee excepts. Judgment for appellant as per Journal Entry. Appellee excepts and gives notice in open Court of Intention to appeal to the Supreme Court of Oklahoma. 30-10-5 days for case made.

There being no further business before the Court, the Court hereby takes recess subject to call.

John Ladner, District Judge.

Attest:

Hal Turner, Court Clerk.

[fol. 48] In District Court of Tulsa County

No. 45612

In re Protest of the Indian Territory Illuminating Oil Company on Assessment of Personal Property in Tulsa County, Oklahoma, for the Year 1929

Indian Territory Illuminating Oil Company, a Corporation, Appellant,

vs.

The Board of Equalization of Tulsa County, Oklahoma, Appellee

Journal Entry of Judgment—Filed Nov. 26, 1929

The above matter comes on for trial on this the 26th day of November, 1929, in its regular order, appellant, Indian Territory Illuminating Oil Company appearing by its attorneys, Fred M. Carter and C. E. Wilhite, and the appellee, Board of Equalization of Tulsa County, Oklahoma, appearing by the County Attorney of said County, said parties waiving jury and agreeing to try said cause to the Court; thereupon appellee moves the dismissal of appellant's appeal, which said motion is overruled and [fol. 49] appellee duly allowed its exceptions, and thereupon appellee demurs to appellant's complaint which said demurrer is overruled and appellee duly allowed its exceptions, and thereupon said parties submit for the consideration of the Court their stipulation and agreed statement of facts heretofore filed herein, and the Court being advised in the premises, and after due consideration finds the issues in favor of the appellant and against the appellee.

It is therefore ordered, adjudged, and decreed that appellant's property, to wit: 4—55,000 bbl. steel storage tanks

and 51,630 bbls. of crude oil located in School District No. 22, Red Fork Township in Tulsa County, Oklahoma, be, and the same is exempt from ad valorem taxes for the year, 1929, and the taxing officials of Tulsa County are ordered and directed to strike and cancel said property from the tax rolls of said County, to all of which said appellee is duly allowed its exceptions.

And from such finding, ruling and judgment the appellee gives in open court notice of intention to appeal to the Supreme Court of the State of Oklahoma, and asks that the Court Clerk be directed to note same upon the trial docket, and it is so ordered, and the appellee praying an extension of time within which to make and serve case-made on appeal to the Supreme Court, for good cause shown, it is ordered that the appellee be granted an extension of thirty days from this date to make and serve case-[fol. 50] made on appeal, appellant to have ten days thereafter to suggest amendments, the same to be settled and signed upon five days notice in writing by either party.

By the Court:

John Ladner, District Judge.

O. K.

C. E. Wilhite, Fred M. Carter, Attorneys for Appellant, Indian Territory Illuminating Oil Co., a Corporation. Byron Kirkpatrick, County Attorney; Hugh Webster, Assistant County Attorney, Attorneys for Appellee, Board of Equalization of Tulsa County, Okla.

[File endorsement omitted.]

[fol. 51] In District Court of Tulsa County

[Title omitted]

Motion for New Trial—Filed Nov. 27, 1929.

Comes now the said appellee, Board of Equalization of Tulsa County, Oklahoma, and moves the Court to vacate and set aside the decision and judgment of the Court rendered herein on the 26th day of November, 1929, and to

grant a new trial for the following causes which affect materially the substantial rights of said appellee.

I. That the decision and judgment of the Court is not sustained by sufficient evidence.

[fol. 52] II. That the decision and judgment of the Court is contrary to law.

III. Error of the Court in holding and deciding that appellant's property is exempt from taxation.

Byron Kirkpatrick, County Attorney; Hugh Webster, Assistant County Attorney, Attorneys for Appellee.

[File endorsement omitted.]

[fol. 53] In District Court of Tulsa County

[Title omitted]

Order Overruling Motion for New Trial—Dec. 7, 1929

Motion for new trial overruled. Appellee excepts and gives notice of intention to appeal to the Supreme Court of Oklahoma. 30-10-5 days for case made.

There being no further business before the Court, the Court hereby takes recess subject to call.

John Ladner, District Judge.

Attest:

Hal Turner, Court Clerk.

[fol. 54] In District Court of Tulsa County

[Title omitted]

Order Overruling Motion for New Trial—Filed Dec. 7, 1929

The above matter coming on for hearing on this the 7th day of December, 1929, on the motion of appellee, Board of Equalization of Tulsa County, Oklahoma, for a new trial,

the said appellee being present by the County Attorney of said County, and the said appellant appearing by its attorneys, Fred M. Carter and C. E. Wilhite, and the Court after due consideration of said motion and counsels' argument thereon, find that said motion for new trial should be overruled.

[fol. 55] It is therefore, ordered, adjudged, and decreed that said motion be, and the same is hereby overruled, to which order of the court said appellee excepts and its exception are allowed, and from such order of the Court the said appellee gives in open court, notice of intention to appeal to the Supreme Court of the State of Oklahoma, and asks that the Court Clerk be directed to note same upon the trial docket, and it is so ordered, and the said appellee praying an extension of time within which to make and serve case-made on appeal to the Supreme Court, for good cause shown it is ordered that the said appellee be granted an extension of thirty (30) days from this date to make and serve case-made on appeal, appellant to have ten (10) days thereafter to suggest amendments, the same to be settled and signed upon five (5) days' notice in writing by either party.

John Ladner, District Judge.

O. K.:

C. E. Wilhite, Attorney for Appellant. Hugh Webster, Asst. Co., Atty., Attorney for Appellee.

[File endorsement omitted.]

[fol. 56] IN DISTRICT COURT OF TULSA COUNTY

STATEMENT AS TO TRANSCRIPT

The above and foregoing sets out fully and correctly all the pleadings filed in said cause, all motions filed or made, and all rulings and orders made thereon; all exceptions taken by plaintiff and defendant to such rulings and orders; all demurrers and rulings thereon with the exceptions thereto; all evidence introduced, the objections thereto and rulings by the Court made thereon; all the exceptions taken by either party to such rulings of the Court; the judgment

of the Court, the exceptions thereto, the Motion for New Trial, the Ruling of the Court thereon and exceptions thereto; the Notice of Appeal given in open Court; and all matters and things had and done in said cause.

[fol. 57] Reporter's certificate to foregoing transcript omitted in printing.

[fol. 58] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 59] In District Court of Tulsa County

[Title omitted]

Certificate of Attorneys

We hereby certify that the foregoing case-made contains a full, true, correct and complete copy and transcript of all the proceedings in said cause, including all pleadings filed, all the evidence offered or introduced; all orders and rulings made by the Court, and exceptions thereto taken and allowed, and all of the record upon which the judgment in said cause was made and entered, and that the same is a full, true, correct and complete case-made.

Witness our hands on this the 17th day Dec. A. D. 1929.

Fred M. Carter, C. E. Wilhite, Attorneys for Appellant. Byron Kirkpatrick, County Atty.; Hugh Webster, Asst. Co. Atty., Attorneys for Appellee.

[fol. 60] In District Court of Tulsa County

[Title omitted]

Tender of Case-made

To the above-named appellant and to Fred M. Carter and C. E. Wilhite, its attorneys of record:

The above and foregoing case-made is hereby tendered to, and served upon you, and each of you, as a true and cor-

rect case-made in the above-styled and numbered cause, and as a true and correct statement and complete record and transcript of all pleadings, motions, testimony and evidence, orders, findings, judgments and proceedings in the above-entitled cause on this, the 13 day of December, A. D. 1929.

Byron Kirkpatrick, Co. Atty.; Hugh Webster, Asst. Co. Atty., Attorneys for Appellee.

Acknowledgment of Service

We hereby accept and acknowledge due, legal and timely service of the above and foregoing case-made upon us this the 17 day of Dec., A. D. 1929.

Fred M. Carter, C. E. Wilhite, Attorneys for Appellant.

[fol. 61] In District Court of Tulsa County

[Title omitted]

Stipulation of Attorneys as to Case-Made

We, the undersigned, Fred M. Carter and C. E. Wilhite, Attorneys of Record for the Appellant above-named; and Byron Kirkpatrick, County Attorney, and Hugh Webster, Assistant County Attorney, Attorneys of Record for the Appellee above-named, do hereby stipulate and agree that the foregoing case-made contains a full, true, complete and correct copy and transcript of all the proceedings in said cause, all the testimony and evidence introduced or offered, all the orders and rulings by the Court made, and the exceptions thereto allowed and taken by either party, and all the record upon which said judgment in said cause was made, and the same is a full, true, complete and correct case-made; and the Appellant above-named waives the right to suggest amendments to said case-made and hereby consents that the same may be settled immediately and without notice, and hereby joins in the request that the Judge of the above named Court before whom said cause was tried, settle the same and order this case-made

certified to the Clerk of the Supreme Court of the State of Oklahoma.

Witness our hands on this the 17 day of Dec., A. D. 1929.

Fred M. Carter, C. E. Wilhite, Attorneys for Appellant. Byron Kirkpatrick, County Attorney; Hugh Webster, Asst. Co. Atty., Attorneys for Appellee.

[fol. 62] In District Court of Tulsa County

[Title omitted]

Notice of Settlement of Case-made

To the above-named appellant and to C. E. Wilhite and Fred M. Carter, its attorneys of record:

You are hereby notified that on the — day of ——, A. D. 1929, at — o'clock — m., or as soon thereafter on said day as counsel can be heard, the case-made in this above-entitled cause, with any amendments theretofore suggested by you, will be presented to the Hon. John Ladner, Judge of the First Division of the above-named Court, and one of the Judges of the 21st Judicial District of the State of Oklahoma, who presided at the time of the trial of this cause in the above-named District Court, at his Chambers, in the Courthouse, Tulsa County, Oklahoma, for settlement.

Dated this — day of ——, A. D. 1929.

—— ——, Attorneys for Appellee.

Service of the above notice is hereby accepted on this the — day of ——, A. D. 1929.

—— ——, Attorneys for Appellant.

[fols. 63 & 64] In District Court of Tulsa County

[Title omitted]

Order Settling Case-made

I, the undersigned, Judge of the District Court in and for Tulsa County, Oklahoma, do hereby certify that the

foregoing was presented to me as a case-made in the above-entitled action; that at the time of the presentation of said case-made to me for settlement and signing there appeared C. E. Wilhite and Fred M. Carter, Attorneys of Record for the Appellant above-named and Byron Kirkpatrick, County Attorney, and Hugh Webster, Assistant County Attorney of Tulsa County, Oklahoma, Attorneys for the Appellee above-named; and there were no suggestions of amendments made by either of the parties to this cause, to this case-made; and I now allow, certify, settle and sign the same as a true and correct case-made and direct that it be attested and filed by the Court Clerk.

Witness my hand at Tulsa, Oklahoma, this 17 day of Dec., A. D. 1929.

John Ladner, District Judge.

Attest:

Hal Turner, Court Clerk, by Lee Evans, Deputy.
(Seal.)

[fol. 65] IN SUPREME COURT OF OKLAHOMA

21295

BOARD OF EQUALIZATION OF TULSA COUNTY, OKLAHOMA, Plaintiff in Error,

vs.

INDIAN TERRITORY ILLUMINATING OIL COMPANY, a Corporation, Defendant in Error

JUDGMENT—May 17, 1932

And now this cause comes on for final decision and determination by the court upon the record and briefs filed therein.

And the court having considered the same finds that the judgment of the trial court in the above cause should be reversed and the cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the trial court in the above cause be, and the same is hereby reversed and the cause remanded with directions to proceed consistent with the opinion filed therein.

Opinion by Andrews, J.

[fol. 66] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

No. 21295

BOARD OF EQUALIZATION OF TULSA COUNTY, OKLAHOMA, Plaintiff in Error,

vs.

INDIAN TERRITORY ILLUMINATING OIL COMPANY, a Corporation, Defendant in Error

Syllabus

1. Since taxation is necessary to the existence and continuance of government, there are no implied exemptions from its burdens, and a relinquishment of such right by the state will not be presumed, unless a deliberate purpose to relinquish it appears.

2. Oil produced from restricted Indian land by a lessee under a departmental oil and gas mining lease during the year 1927, which is run through a pipe line to storage tanks that are seventy-five miles distant from the land from which the oil is produced and held in storage therein as the property of the lessee, the portion of the oil produced belonging to the lessor having been delivered to the Superintendent of the Five Civilized Tribes for the benefit of the lessor, is subject to ad valorem taxation by the state for the year 1929.

Error from the District Court of Tulsa County, Oklahoma

Hon. John Ladner, Judge

Reversed and remanded with Directions

W. L. Coffey, County Attorney; Hugh Webster, Ass't County Attorney, for plaintiff in error.

W. P. McGinnis, Fred M. Carter, Bartlesville; C. E. Wilhite, for defendant in error.

[fol. 67] OPINION—Filed May 17, 1932

ANDREWS, J.:

This is an appeal from a judgment of the district court of Tulsa County, holding that certain personal property belonging to the defendant in error was exempt from taxation and ordering and directing the taxing officials of Tulsa County to strike the same from the tax rolls.

The board of equalization of Tulsa County, hereinafter referred to as the plaintiff, directed the Indian Territory Illuminating Oil Company, defendant in error herein, hereinafter referred to as the defendant, to show cause why the valuation of its personal property located in Tulsa County should not be raised from $116,886.87 to $187,717.97 by including in the assessment for the year 1929 four 55,000 barrel steel storage tanks of the value of $22,000.00 and 51,630 barrels of crude oil of the value of $50,081.10. After a hearing before that board it was ordered that the property be placed upon the tax rolls for the year 1929. The defendant appealed to the district court. That court rendered a judgment in favor of the defendant in which it held that the property was exempt from taxation and in which it ordered the same to be stricken from the tax rolls. From that judgment the plaintiff appealed to this court.

It was stipulated that the steel storage tanks were owned by the defendant; that they were situated in Tulsa County; that they were not situated upon any restricted Indian land or leasehold estate; that they were not situated upon the land from which any of the oil sought to be taxed was produced; that the oil sought to be taxed was produced from land in Seminole County which was owned by restricted Indians; that the oil was produced between the dates of March 31st and June 16th, 1927; that the oil was run through a pipe line from the place of production to the storage tanks in Tulsa County, and that the oil sought to be taxed was commingled with oil from unrestricted land.

[fol. 68] It is not necessary for us to determine all of the various questions presented. We will confine our discussion to the determination of whether or not the property sought to be taxed is exempt from taxation by the state and its political subdivisions.

The defendant contends that the storage tanks are exempt from ad valorem taxation by the provisions of paragraph 5, Section 9814, C. O. S. 1921, and that the crude oil is exempt from ad valorem taxation for the reason that it was produced by the defendant as a federal governmental instrumentality from lands owned by restricted Indians.

The provisions of Section 9814, supra, relate to "machinery, appliances and equipment used in and around any well producing petroleum or other crude or mineral oil or natural gas," and "actually used in the operation of such well." Those provisions have no application to the storage tanks sought to be taxed. Those storage tanks were situated seventy-five miles or more from the producing wells. They were not actually used in and around any well producing petroleum or other crude or mineral oil or natural gas. Going, Co. Treas., v. Shaffer, 89 Okla. 46, 213 Pac. 736. The trial court erred in holding that the storage tanks were exempt from the ad valorem taxation sought to be imposed upon them.

In Trimble et ux. v. City of Seattle, 64 Wash. 102, 116 Pac. 647, that court held:

"Since taxation is necessary to the existence and continuance of government, there are no implied exemptions from its burdens, and a relinquishment of such right by the state will not be presumed unless a deliberate purpose to relinquish it appears."

That is a correct statement of the rule applicable in Oklahoma. Before this court can hold that property is exempt from ad valorem taxation, we must find some constitutional or statutory provision exempting it from taxation. We find no provision of the Constitution or of the statutes of Oklahoma from which we can say that the property sought to be taxed is exempt from ad valorem taxation. [fol. 69] By the provisions of Section 1 of the Enabling Act, the rights of persons or property pertaining to the Indians of the Territory of Oklahoma and the Indian Territory may not be limited or impaired so long as such rights shall remain unextinguished, and the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property or other

rights by treaties, agreement, law or otherwise, which it would have been competent to make if the Enabling Act had never been passed, may not be limited or affected by the Constitution of Oklahoma. We must look to the Constitution and the legislative acts and treaties of the United States to determine whether or not the property is exempt from taxation by reason thereof. If it is exempt from taxation by any of those provisions, it is exempt from taxation under the laws of the State of Oklahoma. In Re Skelton Lead & Zinc Co.'s Gross Production Tax for 1919, 81 Okla. 134, 197 Pac. 495. See also In Re Protest of Bendelari, 82 Okla. 97, 198 Pac. 606.

The defendant cites many authorities to sustain its contention. All of them have been considered by this court. It is not necessary to discuss all of them herein.

The decision in Large Oil Co. v. Howard, 248 U. S. 549, 63 L. ed. 416, was based upon the decision in Choctaw, Oklahoma & Gulf R. Co. v. Harrison, 235 U. S. 292, 59 L. ed. 234. The tax involved therein was a gross revenue tax.

The decision in Gillespie v. State of Oklahoma, 257 U. S. 501, 66 L. ed. 338, involved the question of the validity of a claim for state income tax.

In Jaybird Mining Co. v. Weir, Co. Treas., 271 U. S. 609, 70 L. ed. 1112, there was involved the question of whether an ad valorem tax could be levied upon lead and zinc ore extracted from restricted Indian land and stored in bins on the premises from which the ore had been extracted. This court held that the property was subject to the state ad valorem tax. Weir, Co. Treas. v. Jaybird Mining Co., [fol. 70] 104 Okla. 271, 232 Pac. 425. That judgment was reversed by the Supreme Court of the United States in the above cited case. That court held that the lessee's individual part of the ore was exempt from taxation.

If the oil sought to be taxed in this case had been stored on the premises from which it had been produced and if it had not been separated from the portion belonging to the lessor, under the rule stated in the Jaybird case, it would be exempt from ad valorem taxation. That rule is not applicable to the facts in this case which show that the portion of the oil produced, which belonged to the lessor, had been delivered to the Superintendent of the Five Civilized Tribes for the benefit of the lessor and that the lessor owned no part of the oil in storage.

In Heiner, Collector, v. Colonial Trust Co., Executor, 275 U. S. 232, 72 L. ed. 256, a Federal income tax law was involved.

In Union Pacific R. Co. v. Peniston, Co. Treas., 85 U. S. 5, 21 L. ed. 787, the Supreme Court of the United States said:

"It is, therefore, manifest that exemption of Federal agencies from state taxation is dependent, not upon the nature of the agents, or upon the mode of their constitution, or upon the fact that they are agents, but upon the effect of the tax; that is, upon the question whether the tax does in truth deprive them of power to serve the government as they were intended to serve it, or does hinder the efficient exercise of their power. A tax upon their property has no such necessary effect. It leaves them free to discharge the duties they have undertaken to perform. A tax upon their operation is a direct obstruction to the exercise of Federal powers."

In Metcalf et al. v. Mitchell, 269 U. S. 514, 70 L. ed. 384, the same court held:

"Not every person who uses his property or derives a profit in his dealings with the government may clothe himself with immunity from taxation on the theory that either he or his property is an instrumentality of government within the rule that neither the Federal nor the state government can tax instrumentalities of the other.

The limitations upon the taxing power of the state or Federal government, so far as it affects the other, cannot be so varied or extended as seriously to impair the taxing power of the government imposing the tax, or the appropriate functions of the government affected by it."

[fol. 71] Our attention has been called to no provision of the Constitution, statutes, or Indian treaties of the United States, or no decision of any court from which we can conclude that the property herein sought to be taxed is exempt from taxation. We know of none.

The trial court erred in holding that the property herein sought to be taxed was not subject to ad valorem taxation. The judgment of that court is reversed and the cause is

remanded to it with directions to render judgment in accordance herewith.

Riley, Hefner, Cullison, Swindall, McNeill, and Kornegay, JJ., concur. Lester, C. J., and Clark, V. C. J., absent.

[fol. 72] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

PETITION FOR REHEARING—Filed May 28, 1932

Comes now the Indian Territory Illuminating Oil Company, Defendant in Error in the above case and respectfully represents to the court that on the 17th day of May, 1932, a decree and judgment was entered by this court in this cause wherein and whereby it was adjudged and decreed that 51,630 barrels of crude oil produced by Defendant in Error as lessee under a departmental oil and gas lease duly approved by the Secretary of the Interior from lands located in Seminole County, Oklahoma and owned by Indians who are members of the Seminole Tribe and wards of the Government whose restrictions against alienation of said land have never been removed and of the value of $50,081.10 was subject to ad valorem taxation in Tulsa County, Oklahoma for the tax year beginning July 1, 1929, at the mill rate levy of said county, township and district for said year; which said oil after being produced from the restricted lands aforesaid was as produced transported by pipeline to certain storage tanks of Defendant in Error in Tulsa County, Oklahoma and there held in storage pending sale and at the time said oil was adjudged and decreed subject to said tax the same had never been sold or converted into any other form of property.

That said decision overlooked a question decisive of the case and duly submitted by Counsel in this, to-wit: The case of Dolese Brothers Company against Board of County Commissioners of Comanche County, 151 Okla. 110, 2 Pac. (2) 955, which said case held and decided and it was so decreed that Section 9966 C. O. S. 1921, repealed and super-

seded Sections 9675, 9684 and 9685 C. O. S. 1921, in all respects in which the said Sections of the Statute are in conflict with Section 9966; that appeal of this cause from the County Board of Equalization to the District Court of Tulsa County was not taken and perfected in the manner required and provided by Section 9966, but was taken and filed under and in accordance with the provisions of Sections 9675, 9684 and 9685; that the question of the jurisdiction of the District Court of Tulsa County to entertain said appeal and determine the cause on its merits was raised and presented in the District Court of Tulsa County by motion to dismiss for want of jurisdiction of the appeal, which motion was by the District Court overruled; that the same question was preserved in this court and briefed and presented; that in such situation this Honorable Court is without jurisdiction to hear and determine this case on its merits until this court shall have first heard and determined the jurisdictional question, that is that the District Court [fol. 73] of Tulsa County did properly take and retain jurisdiction of said appeal from the Board of Equalization of said County under the record in this case; for the reason that if the District Court did not have such jurisdiction of the case as to permit and allow it to hear and determine the case on the merits then there is no case before this court on the merits of the issues involved.

Wherefore Defendant in Error prays that a rehearing of said cause may be granted by this Honorable Court.

W. P. McGinnis, Fred M. Carter, C. E. Wilhite,
Attorneys for Defendant in Error.

[fols. 74 & 75] In Supreme Court of Oklahoma

[Title omitted]

Order Denying Rehearing—June 7, 1932

And now on this day it is ordered by the court that the petition for rehearing filed in the above cause be, and the same is hereby denied.

[fol. 76] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 77] SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION OF THE PARTS OF THE RECORD TO BE PRINTED—Filed Sept. 14, 1932

Comes now the Indian Territory Illuminating Oil Company, the appellant in the above entitled cause, and states that the points upon which it intends to rely in this Court in this case are as follows:

Point 1. That the Supreme Court of the State of Oklahoma erred in reversing the judgment of the District Court of Tulsa County, Oklahoma, and in holding and deciding that the said District Court of Tulsa County, Oklahoma, erred in holding that the property sought to be taxed in this cause was not subject to ad valorem taxation for the year 1929 by the State of Oklahoma or any political subdivision thereof.

Point 2. That the Supreme Court of the State of Oklahoma erred in refusing to affirm the judgment of the District Court of Tulsa County, Oklahoma.

[fol. 78] Point 3. That the Supreme Court of the State of Oklahoma erred in holding, deciding and determining that Section 9574 and succeeding sections of Chapter 84 Compiled Oklahoma Statutes 1921, particularly Sections 9814, 9627 and 9614, which provide for the assessment, levy and collection by the State of Oklahoma and political subdivisions thereof of an ad valorem tax on all property situated in the State of Oklahoma during any given tax year are valid when applied to crude petroleum produced from the allotment of a restricted Seminole Indian in Seminole County, Oklahoma, by a lessee under a lease executed by such restricted allottee and duly approved by the Secretary of the Interior, and while the oil so produced is still owned and held in storage in its original state and not disposed of by said lessee and in rendering a decision in favor of the validity of said Statutes when applied to and constructed to cover the property sought to be taxed in this cause, and in not holding under the facts in this cause that said Statutes as so applied are repugnant to the Constitution, Treaties and Laws of the United States.

Point 4. The Supreme Court of the State of Oklahoma erred in holding, deciding, and determining that the acts of the County Assessor, the County Treasurer and the Board of Equalization of Tulsa County, Oklahoma, and the authority exercised by them and each of them under and the authority conferred and vested in them by the said Statutes of the State of Oklahoma mentioned specifically in assignment number 3 herein and above set forth, and other statutes of the State of Oklahoma authorizing the assessment of an ad valorem tax on the property involved in this cause for the period in question are valid, and in rendering a decision in favor of their validity and in not holding said Statutes and the authority so exercised by the officials aforesaid under said Statutes repugnant to the Constitution, Treaties and Laws of the United States.

[fol. 79] Point 5. That the Supreme Court of the State of Oklahoma erred in sustaining the above mentioned Statutes of the State of Oklahoma, authorizing the assessment, levy and collection of ad valorem tax on the crude oil involved in this case, said crude oil being held in storage, unsold and in its original state throughout and during the entire tax period in question by the petitioner herein, and said crude oil having been by the petitioner produced solely under an oil and gas lease upon restricted Seminole lands under the control of Congress and the Secretary of the Interior.

Point 6. That the Supreme Court of the State of Oklahoma erred in its decision denying that the said crude oil produced by the petitioner is and was exempt from ad valorem taxation as claimed by the petitioner under the Constitution, Treaties and Laws of the United States.

And the appellant further states that only the following parts of the record, as filed in this Court, need be printed by the Clerk for the hearing of the case:

Title of Paper	Record Page
Citation and Service	1
Petition for Appeal to the Supreme Court of the United States	3
Assignment of Errors	9
Order Allowing Appeal	11

Title of Paper	Record Page
Bond, Showing Approval	13
Stipulation as to Contents of Transcript of Record	15
Petition in Error	16
Case-Made	18
Journal Entry of Judgment of Supreme Court of Oklahoma	65
[fol. 80] Opinion of Supreme Court of Oklahoma	66
Petition for Rehearing	72
Order Denying Petition for Rehearing	74
Clerk's Certificate	76

John H. Miley, Counsel for Appellant.

Service of the above and foregoing Statement of Points To Be Relied Upon and Designation of the Parts of The Record to be Printed, and receipt of a copy thereof, is acknowledged this 7th day of September, 1932.

W. L. Coffey, County Attorney; Hugh Webster, Asst. County Atty., Attorneys of Record for Board of Equalization of Tulsa County, Oklahoma, Appellee.

[fol. 81] [File endorsement omitted.]

Endorsed on cover: File No. 37,053. Oklahoma Supreme Court. Term No. 356. Indian Territory Illuminating Oil Company, Appellant, vs. Board of Equalization of Tulsa County, Oklahoma. Filed September 8, 1932. File No. 37,053.

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed December 12, 1932

The petition herein for a writ of certiorari to the Supreme Court of the State of Oklahoma is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.